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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/686,847      | 10/16/2003  | Richard B. Klein     | LYNK.107675         | 1761             |

27526 7590 12/22/2005

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EXAMINER

PUROL, DAVID M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3634

DATE MAILED: 12/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/686,847

Applicant(s)

KLEIN ET AL.

Examiner

David M. Purol

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 6,9-11,18-20,22 and 25-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,8,12-17,21,23 and 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 01202004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. The preliminary amendment filed on December 19, 2003 has been entered.
2. On page 1, first paragraph, the status of the listed application is to be updated. Correction is required.
3. Applicant's election of Species II in the reply filed on September 25, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The applicants state that claims 1-24 read on the elected Species II. However, from an inspection of the claims it is ascertained that claims 6,9,10,18-20,22 recite a substantially flat shoulder connecting the C shaped hanger with the first end portion of the main body which is not encompassed by the elected Species II. In addition, claim 11 sets forth that the flange of the C shaped bracket comprises an opening which is not encompassed by the elected Species II.

Accordingly, claims 6,9-11,18-20,22,25-31 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species.

4. Claims 1-5,7,8,12-17,21,23,24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not known if the applicants are claiming the storage apparatus per se or in combination with a door. While claim 1, line 1 recites "Storage apparatus for application to a door" and thereby sets forth that the claims are drawn to the storage apparatus per

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se, lines 5-6 state that the connection portion of each bracket is located on an inside area of the door which can only be an accurate recitation if the door is an element of the claimed invention. The dependent claims define the structure of the door and compare the orientation of the storage apparatus with that of the door. For example, claim 3 in its entirety; claim 4, lines 5-6; claim 5 in its entirety; claim 7 in its entirety; claim 8, lines 4-5; claim 12, lines 2-3; claim 13, lines 2-3. Similarly for claims 17,21,23,24. Elements of an invention to which it is necessary to refer in order to define other elements of the invention are to be positively included in the claims.

These claims recite the expression “when said” which is indefinite inasmuch as it fails to establish the metes and bounds of the claim for it attempts to set forth a conditional limitation based upon an event which may not occur.

These claims recite the term “presents” or “presenting” which is indefinite for it implies an event as opposed to a structural constituent of that which an element comprises.

Claims 8,12-16 are further indefinite for they recite a preamble which is inconsistent with the claim upon which they are dependent.

There is no antecedent basis for the following:

Claim 7, line 2 “the storage rack”; claim 7, lines 8-9 “said C shaped bracket”; claim 8, lines 2-3 “said shaped hanger” wherein it is not clear if reference is being made to the C or the H shape; claim 12, line 3 “each hanger” wherein it is not clear if reference is being made to the hanger brackets or the pair of hangers.

Claim 21 does not appear to end in a period.

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5,7,8,17,21,23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Zelen et al. Zelen et al disclose a storage apparatus comprising hanger brackets 34 each comprising an L shaped hanger 40,44 and a C shaped hanger 48,50,52 disposed on opposite ends of main body 42, and a storage device 12,20,72,60 supported by hangers 28 from the hanger brackets 34.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.


Claims 12-14,24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zelen et al. As to the use of openings, note that Zelen et al disclose the use of openings 54,56 (also note the illustrated opening in figure 2 on the flange of the L shaped hanger) and to use such openings as desired for their explicit purpose would have been obvious to one of ordinary skill in the art. With respect to the attachment as including a hook on the hanger, Official Notice is hereby given that the knot 58 as disclosed by Zelen et al is the full and obvious mechanical equivalent.

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7. Claims 15,16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zelen et al in view of Watkins. While Zelen et al do not disclose the use of a vertical rod, Watkins discloses a storage apparatus comprising a vertical rod 7, wherein, to incorporate this teaching into the storage apparatus of Zelen et al for its explicit purpose of supporting an item would have been obvious to one of ordinary skill in the art.

8. The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Derman, Artley, Klein et al, Zadro, Gusdorf et al, Protz, Emery et al '902 and '279.

9. Any inquiry concerning this communication should be directed to David M. Purol at telephone number (571) 272-6833.

  
David M Purol  
Primary Examiner  
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